

Damon Wheeler #78063054
Metropolitan Detention Center
P.O. Box 329002
Brooklyn, NY 11232

May 25, 2018

Re: Wheeler v. Artola, et al., #16-cv-7440 (LMS)
Objections to Tainted Evidence

Clerk, U.S. District Court, S.D.N.Y.
300 Quarropas St.
White Plains, N.Y. 10601



Your Honor:

Plaintiff writes this letter stating the following objections in response to the Reply Declarations of Attorney Alex Smith and Defendant Artola, and the Affidavit of Karen Amundson, who claims to be Plaintiff's Legal Aid Attorney regarding the April 5, 2014 Arrest.

1. The Reply Declaration of Alex Smith, dated May 7, 2018 contains a document labeled Exhibit B (Certificate of Disposition) which differs from the certificate of Disposition that he supplied to the Court during the Disclosure/Discovery stage, which demonstrates that

All charges stemming from the April 5, 2014 arrest were dismissed in favor of the Plaintiff. The document submitted by Alex Smith in his Reply Declaration is tainted, and accordingly, plaintiff can sue due to tainted evidence. See *Caldwell v. City of San Francisco*, 2018 BL 167835, 9th Cir. No. 16-15473, 5/11/18.

2. The Reply Declaration of Defendant Artola, Exhibit I, contains a document depicting contraband that Attorney Alex Smith says he recently "found" in the evidence locker. There is no lab report attached to this recently found document, nor was this information submitted during disclosure, so this tainted document should hold no weight in the court's decision on Summary Judgment.

3. The Affidavit of Karen Amundson shows no evidence of court transcripts demonstrating a detailed guilty plea entered by plaintiff on June 20, 2014 or anytime thereafter. Also, Ms. Amundson should not be allowed to offer testimony against plaintiff due to Attorney/client privilege, since she claims to have been plaintiff's Attorney regarding the April 5, 2014 arrest.

Dated: May 25, 2018
Brooklyn, N.Y.

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UCS-540

**MIDDLETOWN CITY COURT**

2 James Street, Middletown, NY 10940

Phone: (845) 476-3630 Fax: (845) 343-5737

Present: Hon. Steven W. Brockett

The People of the State of New York

vs.

Damon C. Wheeler

24 Mila Dr, Middletown, NY 10940

AKA(s): Ross

Criminal Disposition ReportDocket Number: **CR-02027-14**

CJTN: 066551091H

NYSID: 05335319J

Motorist ID: 592549540

Sex: Male Race: White DOB: 11/07/1969

EYO: N

YO: N

04/05/2014	Middletown City Police Department	NY0350100	CM-00908-14	CM-01737-14
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1		PL 220.16 01 Cpcs-3rd:Narc Drug Int/Sell	BF	09/22/2014	Reduced to (Count #7)		160.50
2		PL 195.05 Obstruct Governmentl Admin-2nd	AM	09/22/2014	Dismissed (Motion to Dismiss Granted, Sealed 160.50)		160.50
3		PL 205.30 Resisting Arrest	AM	09/22/2014	Dismissed (Motion to Dismiss Granted, Sealed 160.50)		160.50
4	FRT1004HKB	VTL 1227 01 Drinking Alcohol In M/V On Hwy	I	09/22/2014	Dismissed (Motion to Dismiss Granted, Sealed 160.50)		160.50
5	FRT1004FKB	VTL 0375 2A1 Equip Vio-No/Inadequate Lights	I	09/22/2014	Dismissed (Motion to Dismiss Granted, Sealed 160.50)		160.50
6	FRT1004GKB	VTL 0375 2A4 No/Inadequate Plate Lamp	I	09/22/2014	Dismissed (Motion to Dismiss Granted, Sealed 160.50)		160.50
7		PL 220.03 Crim Poss Contrl Subst-7th	AM	09/22/2014	Dismissed (Motion to Dismiss Granted, Sealed 160.50)		160.50

ATTENTION: If charges in the above docket are indicated as **SEALED**, please process your records accordingly.Dated: January 24, 2017

 Chief Clerk/Clerk of the Court

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Brooklyn, N.Y. 11232



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White Plains, N.Y. 10601

